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PATENT
06007/37458

**IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE**

Applicants:

COOK et al.

Serial No.: 09/866,311

Filed: May 25, 2001

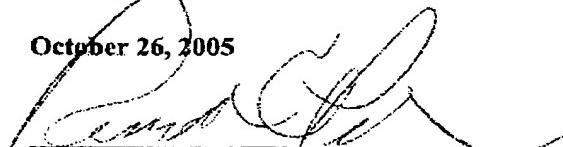
For: HYDRAULIC SYSTEM FOR
WHEELED LOADER

Group Art Unit: 3745

Examiner: F. Daniel Lopez

I hereby certify that this correspondence is being
facsimile transmitted to the Patent and Trademark
Office, facsimile no. 571-273-8300, on the date
shown below.

October 26, 2005



Russell C. Petersen
Registration No. 53,457
Attorney for Applicants

**DECLARATION OF DAVID A. COOK AND BEN COVELL
PURSUANT TO 37 C.F.R §1.131**

We do hereby declare as follows:

1. We are the inventors of the subject matter disclosed and claimed in the above-captioned application.
2. We have been informed that the above-captioned application, US Application Serial No. 09/866,311 was filed on May 25, 2001 ("the US Application"), and that it claims priority from an earlier Great Britain application Serial No. 0012602.9, filed May 25, 2000 ("the priority application").
3. We submit this Declaration for the purpose of providing evidence that the subject matter claimed in the Application was conceived and reduced to practice in a WTO country as of a date prior in time to December 16, 1999.
4. We have been informed that A'Hearn et al., US Patent No. 6,357,320 (hereinafter, "A'Hearn", a copy of which is attached hereto as Exhibit "A"), was cited against the claims pending in the above-captioned U.S. Application.
5. We have been informed that the effective date of A'Hearn as an alleged prior art reference is December 16, 1999.

6. We have read and understood A'Hearn.

7. To establish the date of conception of our invention prior to

December 16, 1999, we provide evidence in the form of an internal memorandum (Exhibit B) detailing aspects of the Soft Ride System ("the SRS system) with Hose Burst Control Valve (HBCV), which were the internal names for the systems combined in the invention disclosed and claimed in the above-captioned application. The memorandum describes certain aspects relating to the structure and operation of the SRS system and the HBCV system. The date has been redacted from Exhibit B. The memorandum was prepared in a WTO country, where our invention was also conceived, prior to December 16, 1999.

8. To further establish the date of conception of our invention prior to

December 16, 1999, we provide evidence in the form of another internal memorandum (Exhibit C), entitled "Engineering Team - Key Issues (On-Going), which includes Item Number 14 relating to "Review SRS/120hp/5 speed/var. flow introduction . . ". The memorandum also includes item 15 which relates to the SRS and states "Demo. Smart forks, side shift, and SRS to JP." The date has been redacted, as have other items not related to the conception, reduction to practice, and/or development of the SRS system or components thereof. The memorandum was prepared in a WTO country, where the invention was also conceived, prior to December 16, 1999.

9. To establish the reduction to practice of our invention prior to

December 16, 1999, we provide evidence in the form of an Engineering Drawing No. 042/E30018 entitled "Boom Suspension" (Exhibit E) which shows aspects of the hydraulic ride improvement circuit, and includes a written/graphical description of one embodiment of a hydraulic circuit for a loader arm machine in which the hydraulic circuit

includes a ride improvement system that remains operable while the loader arm is raised or lowered. The date has been redacted from Exhibit E. The drawing was prepared in a WTO country, where our invention was also conceived, prior to December 16, 1999.

10. Prior to December 16, 1999, we conceived of and reduced to practice the SRS system disclosed in Exhibit E that could remain operable while the loader arm is raised or lowered. As outlined in Exhibit B, when the loader arm is raised with the SRS System activated, the valves A and B are both energized, such that fluid can flow both to the accumulator E and the dump F. Further we conceived of and reduced to practice the SRS system configured to be activated when the loader arm is lowered prior to December 16, 1999. In this configuration, valve A is energized while valve B is de-energized. Here fluid flows from the boom valve section D to the rod side of the cylinder G, and the valve B prevents fluid from flowing to the dump F. Thus pressure builds in the line between the boom valve section D and the rod side of the cylinder G. As a consequence the piston in the cylinder moves and fluid is expelled from the non-annulus side of the cylinder G, and passes mainly to the boom valve section D, but also may pass through valve A to the accumulator E. Thus, a ride improvement system while the loader arm is lowered was conceived of and reduced to practice prior to December 16, 1999.

11. Further to establish reduction to practice of the invention prior to December 16, 1999, we provide evidence in the form of six (6) Work Area Orders (Exhibit D-1 through D-6) detailing still further aspects of the SRS system, including the development, testing, etc. of certain components and/or the entire system. As shown in particular in Exhibits D-5 and D-6, we constructed and tested the SRS system with HBCV, as outlined in the claims and specification and described in this declaration, for one week. This test showed that the SRS system with HBCV actually existed and worked for its intended purpose prior to December 16, 1999 in a WTO country. The dates have been redacted from Exhibits D-1 through D-6. The Work Area Orders were prepared in a WTO country prior to December 16, 1999.

12. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and such willful false statements may jeopardize the validity of the application or patent issued thereon.

10/17/2005
Date

David Cook
David Cook

10/17/2005
Date

Ben Covell
Ben Covell